moment, and nearly all of them escaped pross-examination at the hands of the befores.

The exception was Dr. De Jarnette, insanity, but he defense an amusing incident the testimony of Dr. Emmons, the expert placed on the stand yesterdit the testimony of Dr. Emmons, the expert placed on the stand yesterdit the testimony of Dr. Emmons, the expert placed on the stand yesterdit the testimony of Dr. Emmons, the expert placed on the stand yesterdit the hypothetical question had been drawn and was all ready, but the facts upon which it was based were not forthcoming in the examination of the witnesses placed on the stand during the morning, and so the paper had to be redrawn. The hypothetical question, which is printed in full elsewhere, told the story of the tragedy from the standpoint of the prosecution, and when Mr. Harman asked Dr. De Jarnette to say what was the mental condition of the man described, the expert answered: "He was very angry to the provocation, and not insane."

On cross-examination Dr. De Jarnette to say what was the mental condition of the man described, the expert answered: "He was very angry to the provocation, and not insane."

On cross-examination Dr. De Jarnette (answered freely the questions put by Mr. Lee, and did not hesitate to make statements in several incidents which favored the accused. One was when he said that a sane man would probably have acted just as Judge Loving did, and another was a statement to the effect that Judge Loving might have been insane when he killed Estes, His exact words were "There is a possibility of insanity, but in the judge's case I think it was intense anger, and not insanity."

DE JARNETTE'S TESTIMONY WILL BE DRIVEN HOME.

DE JARNETTE'S TESTIMONY

WILL BE DRIVEN HOME.

acknowledgment of a possibility of insanity may play an important part in the argument before the jury of counsel for the defense, for under the law the jury will be instructed that the prisoner is entitled to the henefit of any doubt, and this point will certainly be driven home by the lawyers for the accused.

At the conclusion of Dr. De Jarnette's testimony Mr. Bouldin announced that the evidence was all in, and asked that court adjourn and take up the matter of instructions to-morrow.

the evidence was all in, and asked that court adjourn and take up the matter of instructions to-morrow.

It is said by counsel to-night that the morning session to-morrow will be consumed in arguing the instructions, which were placed in the hands of Judge Barksdale to-night. The instructions offered by the defense ard practically the same asked by the accused in the Strother case tried at Culpeper, Argument before the jury will begin after recess to-morrow, Mr. Daniel Harmbn opening for the State. He will be followed by Messrs. Strode, Barksdale. Moore and Lee for the defense, and Mr. Wood Bouldin will close for the Commonwealth. Mr. Whitehead will not take part in the argument. Counsel are of the opinion that the case will go to the jury Saurday night, and the question is whether a verdict will be reached by midnight or whether the jury will be locked up until Monday morning. That this verdict will be "not guilty" is the opinion of the great majority of the people of Halifax, and it is probably safe to assert that it either be an acquittal or a hung jury. One of the strangest incidents of the Irial is the fact that not a single exception has been noted by the defend-

COURT RULES IN PRISONER'S FAVOR

Decides to Exclude All Testimony Relating to Character. of Miss Loving.

waited pattently to hear His Honor's ruling on the question of collateral syldence, which meant so much to the

Judge Barksdale, on entering the Judge Barksdale, on entering the courtroom, bowed pleasantly to Judge Loving. It has been published that Judge Barksdale has not noticed the prisoner, but the fact is that in the preliminary hearing in Nelson county Judge Barksdale asked to be introduced to Judge Loving, and when introduced by Hon Mr. Strode, shook

duced to Judge Loving, and when introduced by Hon Mr. Strode, shook
hands with the prisoner cordially.

After the reading of the orders, the
jury was sent out and Judge Barksdale at once read his ruling on the objection made by the defense to testimony brought forward by the prosecution. Judge Barksdale reviewed the
arguments made by counsel for the dofense and prosecution, eiting authorities and giving in full his reason for
ruling.

Text of Opinion.

The text of Judgo Barksdale's opinlon follows in full:

In the case at bar the Commonwealth,
having proved the hornicide and the
conduct and declarations of the accused
accused by his ovidence has accused to
justify and excuse his act by proof of
the fact that immodiately prior to the
act his only daughter related to him

"Berry's for clothes."





that she had been drugged and dishonored by the deceased, which assault on his daughter by the deceased eccurred, according to her statement, during a buggy drive on the evening before; that he was so overcome by the shock of this intollicence of this gross provocatio; on the part of the deceased, that he immediately armed himself with a shotqun, went in pursuit of the deceased, and shot him down on sight. — Both W. G. Loving, the prisoner, and Elizabeth Loving, the daughter, have testified to the interview between them, and Elizabeth Loving, has detailed the incidents of said ride with Theodore Estes, the deceased, testifying that he drugged her and attempted to assault her; that she tried to scream, but that he placed his hand over her mouth; that she became unconscious, and has little or no recollection of subsequent events, until after she was put to bed in Mrs. Klad's house. And the prisoner offered expert and other evidence tending to prove that at the time of the homicide that he was not responsible for his acts. The Commonwealth offered to introduce sundry witnesses to discredit Miss Loving's story and to prove that Theodore Estes, the deceased, was guilty of no assault, or other improper conduct towards her, and that the statement made by her to her father was in point of fact untrue.

To the introduction of this testimony for the court to decide is as to the right of the Commonwealth it is insisted that the tragedy under investigation.

right of the Commonwealth to introduce this rebuttal testimeny.

For the Commonwealth it is insisted that the tragedy under investigation grew out of the buggy ride, and that all the light possible should be turned on this occurrence, and that the jury are entitled to every fact and circumstance connected with it; that what occurred than is a part of the res gestae, and a such should be admitted as well for the purpose of impeaching Miss Loving.

The prisoner's contention is that the evidence sought to be introduced is not actually and immaterial issue, and that introduction would tend to divert the mids of the jury from the real issue of the case, and that it is not competent for the court to inquire into the truth or faisity of the statement made by Miss Loving to her father.

In Greenleaf on Evidence, Vol. I.,

page 156, section 101, it is said:

"This Lord Abinger says, if a man calls another a liar and was knocked down the plaintiff in an action for the battery would not be allowed to prove on the trial of the assault that the defendant was really and in point of fact a liar, because evidence of provecation is admitted for the purpose of showing that the feelings of the defendant were excited."

terial and carming the defendant's of mony. The State cannot show of an insulting charge or stat the deceased, but the defendance its falsity because this fincrease its provoking effect."

prove its falsity, because this fact would increase its provoking effect."

In the case of Massie vs. Commonwealth, 58th S. W. Rep., page 87t, 3mes Hanna on the day of the killing informed Massie that Honaker had told him Glanna), that Massie shad improper relations with his coust. Immediately after hearing that communication, Massie that Honaker had been supported by the court had been supported by the court had been supported by the court held that "it was competent to prove that Honaker made the charge, and that Hanna communicated the fact to Massie, because bearing materially upon the question of whether he was guilty if at all, of murder or manslaughter, but it was wholy immaterial whether the charge was true or false, or whether Hanna nasented to the truth of it, and no inquiry as to either fact should have been permitted by the court; for it is easy to perceive how introduction of such irrelevant testimony would necludice the minds of the jury and induce them to

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table. Best for sandwiches and restaurants. Makes crispest toast. For Sale by All Grocers

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recommend them to all.

disrogard and forget the true issue invoived."

And in Colo's Trial, Abbot's Prac. Rop. Vol. VII., the judge in his charge to the Jury, speaking of the adultery of the Jury, speaking of the adultery of the Jury, speaking of the adultery of the confessions of the wife do not prove in the year of the wife do not prove in they were not admitted for such a purpose, and are not to have that effect. Their introduction was permitted not as farnishing evidence of the facts themselves, but as communications made to the husband, and which were calculated, more or less, to eparate upon his mind and to influence his conduct, and to enable you in the light of subsequent events to judge how far they did recoporate, and to determine to what as tent the knowledge of the subsequent of the wife of the property of the pro

It is suggested that no case has ever

bo."

It is suggested that no case has ever occurred in which this evidence has over been ignored by a Jury. That is not the question. It is not necessary for us to inquire whether former juries have or have not yielated their eaths by accepting as evidence facts which have not been proved. It is a dangerous and inadmissible proceeding in a court of justice.

In the argument of the case at bar it was stated by counsel for the dofense, and not controverted by the representatives of the Commonwealth and noted criminal rital occurring in this country for years—the Thaw trial—proof of the truth or falsity off the communications made by Evelyn Neshit Thaw to her husband was oxcluded without serious objection by Mr. Jarome, who represented the prosecution, and a case in California, which could not be furnished to the court, was cited to the same effect.

Ageinst those decisions which, though

to the court, was cited to the same effect.

Against these decisions which, though not binding on this court, are strongly persuasive, representatives for the Commonwealth cite no decided cases as authority for their position, but urgs the introduction of the testimony as part of the res gestae and proper to go to the of the res gestae and proper to go to the furny to impeach the testimony of Miss Loving.

Should it be admitted to contradict Miss Loving?

In Langhorne's case, 75th Va., 1012.

Miss Loving?
In Langhorne's case, 76th Va., 1912,
It is said in the syllabus: "No question
as to irrolevant facts can be asked
witnesses for the purpose of impeaching
his credit by contradicting him, but
if asked and answered, his answer will
be completed."

If asked and answered, his answer will be conclusive."

As already said, what occurred on the drive with Estes could not have been proved by the Commonwealth as a part of its case, and according to this teat, the facts sought to be disclosed on Miss Leving's cross-examination in this case, in reference to the ride and her return to Lovingston, are collateral, and cannot be contradicted. In the same effect is Am, and Eng. Enc. of Eyidence, 30th Vol., page 1037, and Nuckols's Admr. vs. Jones, 8th Gratt. page 274, and in N. and W. Rwy. Co. vs. Carr. Va. Lateger 134, and the number of contradicted in the same effect of the contradicted in the same effect of the contradicted in the same of the contradicted in the contradicted in the manual way of the contradicted in the contradiction of Evidence, vol. I. page 52: Ward vs. White, 83 vs., and Poindexter's case, 33 Gratt, were cited. Judge Lacy in Ward vs. White, 85 vs., and Poindexter's case, 33 Gratt, were cited. Judge Lacy in Ward vs. White, says:

"The area of events covered by the term as res gestae depends upon the circumstances of each particular case, and calculated in the court in that case it cannot be insisted that the buggy ride was the came of the second, and was the cause of t

To Rold such a decrine of the admit the evidence as asked, would deprive the prisoner of the bonefit of that marcy which the law shows to a man who are the the law shows to a man who are the law shows to a man who are the law to the law the law t

Why Not Cure It?

DO YOU HAVE HIMEUMATISM EVERY YEART

If You Do You are Dectoging the Symptoms Only—Dr. Williams' Pink Pills Cure the Disease.

There are almost as many ways of treating rheumatism as there are deceived at the symptoms and are considered slicessful if they relieve the pain and stiffness. But the blood has not been purified and the rheumatism is sure to return, especially after a season of exposure to cold and dempness. The patient goes through this experience year after year and begins to think that permanent relief is impossible.

The only way to treat rheumatism is through the blood. This is the method of Dr. Williams' Pink Pills—they not only cleanse the blood of the impurities which cause the disease but build up and restore the broken-down system.

Mr. John Riley, of Cazenovia, N. Y.,

Mr. John Riley, of Cazenovia, N. Y.,

BUT NOT INSANE

tem.
Mr. John Riley, of Cazenovia, N. Y. says: "In my work as a blacksmith, I am exposed a great deal to changes of temperature. Some time ago I noticed that my health was breaking down. The symptoms were general physical weakness, loss of appetite and nervousness.

witness said that prisoner made this same statement before the trial justice.

Witness stood aside.

Mr. E. L. Kildd, of Lovingston, was the next witness called by the prosocution. He said he was clerk of the court of Nelson county. He said he had known Judge Loving for many years. Witness said prisoner had made an efficient judge.

Witness said Judge Loving's mental and physical condition was "first rate"; that he had seen his handwriting as late as last February, and that he saw no change in his handwriting since he was judge. Witness said prisoner was considered a fine bird shot, and added that he had been manager of Oakridge Farm for two years, and that he carried on large business interests for Mr. Ryan, Witness said he had never heard of any hereditary taint of insanity in Judge Loving's family.

Mr. Lee cross-examined witness.

Witness said he did not know Judge Loving well until be

Witness said he did not know Judge Loving well until he came to Lovings

ton.
Witness said he is the uncle of Theodore Estes, the man killed by Judge Loving, and that it was at his house that Miss Loving stopped on the night of the alleged outrage.
"I have no further questions to ask,"

the night of the alleged outrage.
"I have no further questions to ask," said Mr. Lee.
Mr. W. N. Dawson was then recalled by the prosecution. Witness said he had known prisoner for twelve or fifteen years; that Judge Loving was fond of hunting. Witness had always regarded him as a high-tempered man, although witness never saw him evince a high temper, On cross-examination, witness said he was the brother-in-law of Mr. Kidd, the uncle of Theodore Estes.

Undertaker Nervous.

Undertaker Nervous.

Undertaker Nervous.

J. O. Loving, the undertaker, was recalled by the prosecution. Mr. Loving, who is not related to Judge Loving, who is not related to Judge Loving, was extremely nervous, and chewed gum vigorously. He said that the prisoner was a man who had little regard for the opinion of others, unless the opinion agreed with his. Prisoner was over the average in physical strength and activity.

On cross-examination witness said he was no relation to Judge Loving; that his daughter had married a brother of Theodore Estes.

"You may stand aside," said Mr. Lee.

brother of Theodore Estes.

"You may stand aside," said Mr. Lee.
L. J. Sheffield, a builder, of Lovingston, was called by the prosecution. He said he had lived in Lovingston since 1873. He had known prisoner ten or twelve years, and had never seen any mental or physical defect in him, nor had he ever heard of any insanity in the Loving family.

On cross-examination he said he did not know Judge Loving until after his habits had changed for the better regarding drink. He stood uside.

John T. Fitzpatrick, of Arrington, in Nelson county, six miles from Lovingston, was the next witness for the prosecution. Witness knew him in Amherst twenty years ago, but not intimately until he moved to Nelson county; never heard it intimated that he was insane. Witness said Judge Loving was a healthy man. He did not know what Judge Loving's disposition was.

On cross-examination witness said

Bears the Bignature Charff Fletchers

BUT NOT INSANE

that my health was breaking down. The symptoma were general physical weakness, loss of appetite and nervousness.

Was evident that my blood was weak and impure. I became no better as time went on and manily this condition of my blood, with the constant experiment by the one that the constant experiment by the constant experiment by the constant experiment by the constant experiment of the inflammatory kind and was very natiful in the joints, especially and the constant experiment in the points, especially and the constant experiment is and one for six weeks.

"A follow blackemith advised me to the constant experiment is shown be and genined to a help from other treatments, I decided to give them a trial. I was getting better and in a few weeks I was cured. That the cure is permanent is shown by an after than 1 a few weeks I was cured. That the cure is permanent is shown by an after than 1 a few weeks I was cured. That the cure is permanent is shown by an after them. I can truthfully say that Dr. Williams Pink Pills put me on my fet again." Dr. Williams Pink Pills have cured anaemia, after-effects of the strip and fevers, generated and the process of a successful career. He was repeated and honored in his community, and rapide and saw an old darky waving to him from the car, and I went to the car. I asked the darkey what was the matter. He said: "Judge Loving has killed Mr. Esse. I said: I think he has killed him."

Witness said has even to be constanted to the way back to the care he met Judge Loving, was very silent and spoke only once of the tragedy.

Witness said he drove with prisoner made this ame statuent before the trial, use to kill."

"I went back and said to the judge loving had asked "If Estes had love to kill."

"I went back and said to the judge loving had asked "If Estes had love to kill."

"I went back and said to the judge loving was very silent and spoke only once of the tragedy.

Witness said had prisoner made this same statuent before the trial justice. The constraint of the court of Neison c

"During the latter period he made every effort to break off the liquor habit, and while there was some improvement in—the habit after he moved to Nelson, he was unable to overcome it, and finally realizing this, at the entreaties of his wife and friends, he took a course in a Keeley institute in October, 1895. After that he came back and lived on his little farm and practiced haw until 1898, when he was elected judge of the County Court of Nelson, and held that position until 1904, when the County Courts were abolished. He filled this office with credit and honor. During that period he did not drink anything except on two occasions—in October, 1905, at the Lynchburg Fair, he got on a spree that lasted several days, and again on the 22d of February, 1907, he got on another spree in Lynchburg, which lasted several days. On the first occasion he was taken to his home, where he was ill in bed for some days, with a doctor in attendance. While he was drinking he conceived that he was being pursued by his political cenemies. On the second occasion, after he had ceased drinking, he was oppressed by the hallucination that a cog had slipped in the bearings of his brain.

"In a short time, ten or fifteen seconds, he came to himself, and said he had never had such an experience before. In May, 1905, he was put in charge of the large farm of Mr. Thomas F. Ryan, in Nelson county, as superintendent, and was in that employment until the homicide hereinafter mentioned. He filled the office of county judge efficiently, and has likewise discharged efficiently his work as superintendent for Mr. Ryan, Since his returne from the Keeley institute, in 1895, he has been sober, with the exception of the two sprees referred to, and was regarded by those having dealings with him as a man of strong and legible and at the time of the homicide hereinafter mentioned his returne from the Keeley institute, in 1895, he has been sober, with the exception of the two sprees referred to, and was a candidate for Congress. During the time of his dissi

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from her the story of what had taken place. At this time he had himself in hand, and wishing to keep himself under control, would not go to his daughter, fearing that he might meet the young man and do something rash, and so he sent a colored driver for her in a vehicle, and on his returning without her, he sent his wife for her, and she was brought back to his house about one o'clock in the afternoon.

The same of clock in the atternoon.

"The was then at dinner, and after the was then at dinner, and after the was then at dinner, and after the was then to tell-liminal. She knelt at the invitation of the young medical the provided of the young medical the invitation of the young medical was visiting, having first declined the invitation; that they turned back and went by the home of the young man, who got out of the buggy and went into live or six mine back, and then drove on some two miles further in an opposite dynamics of the young man she took a driek miles of the young man she took a driek miles where she was staying. He declined, and turned into a mountain road recollected mot live young turned into a mountain road recollected mot week that she recollected not week that she had one week that she had to restain that of week that she had to restain that of week that she had to not receiving this information in the back and the receiving this information in the week that had to not week that she week that had to not week that had to had the receiving tha

bis application he volunterily stated to the magistrate:

"One near and dear to me was driven in a buggy on yesterday, and she was brought oack at a late hour, drugged and unconscious. I sent for hey, and didn't go myself. She came, and I heard it from her own lips. My blood botled; every fibre of my nature moved. I deliberately sought the life of the man I killed. No power on earth could have stopped me, and God Almighty could not have stopped me, In your opinion, what was the state of mind of the person described at the time of the shooting."

[It will be nated that the hypothetical question differs widely from that put by the defense to Dr. Emmons.]

Angry: Not Insane.

Dr. DeJarnett repiled: "He was very angry as to the provocation, and not linsane."

On cross-examination he was asked what is insanity. He said it was hard to define, and then gave a technical definition. He said it was a disease of the brain. He said that excessive alcohol was quite often a cause of disease of the brain.

He said that any man who tad ever had delirium tremens had been insane. He said that earlied tremshing and nervousness, and may or may not cause brain lesion. He said that the use of whiskey bringing on brain lesion may cause a permanent impairment of the mental faculties He said that he had in his own hospital patients whom a stranger would not know were insane. Insanity, he said, like all other diseases, had its inclinent stages.

Mr. Lee asked witness if a man weakened by drink and a man perfectly normal were each fold that a daughter had been drugged and ruinod which would give way first to impluse to kill.

"Tithink the sane man would do it," replied the dootor. "It think a sane man would feel the provocation and act."

The asked with no hereditary taint that became insane from seeing a snake, and died insane. The instance was to prove that a sudden shock causes insanity.

Withess said it was impossible to fix the time when insanity begins or when reason returns. He was asked in a could insane. The instance was to prov

[Special to Julge Loving.

[Special to The Times-Dispatch.]

HOUSTON, VA. June 27.—An interesting story has come out in connection with the Loving murder trial. Years age a lady in Ambierst county employed Judge Loving to defend a suit against her, which he won. His fee was only paid in part, but when he was indicted for the murder of Theodore Estes the lady sent a messenger to Judge Loving with \$100 in gold, the remainder of the fee, and a hag containing \$300, her savings for years, which she insisted he use in his defense. The incident only shows the regard in which Judge Loving is held in his own home county.

Newspapermen Appreciative,
HOUSTON VA., June 27.—During the
recess hour to-day, the twelve newspaper men on duty here in the Loving
murder trial presented Clerk Craddock
with a piece of silver in appreciation
of his kindness in making them comfortable, and sent a joint wire of
thanks to the Mecklenburg Mineral
Springs Company for the gift of several cases of water.

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